

**TENNESSEE BOARD OF PHARMACY
JULY 12 – 13, 2005
ROOM 160 – DAVY CROCKETT TOWER
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Reggie Dilliard, President
Julie Frazier, Vice President
Sheila Mitchell, Member
James Mitchell, Member
Monica Franklin, Public Member*
Todd Bess, Member
Robert Shutt, Member

STAFF PRESENT:

Kendall Lynch, Director
Alison Z. Cleaves, Chief Legal Counsel
Martha Agee, Board Administrator
Terrence Cannada, Pharmacist Investigator
Harry Fuqua, Pharmacist Investigator
Terry Grinder, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, July 12, 2005, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:10 a.m. CDT by Dr. Reggie Dilliard, President. *President Reggie Dilliard noted for the record that Mrs. Monica Franklin is absent due to sickness in her family. Director Kendall Lynch introduced pharmacy students who are attending the University of Tennessee College of Pharmacy,

APPROVAL OF THE MINUTES

Director Kendall Lynch requested the **minutes of the May 17 - 18, 2005** board meeting be **deferred**.

CONSENT ORDERS

MARGARET BEAULIEU, DPH
1925 Fleetwood
Kingsport, TN 37660

Chief legal counsel, Mrs. Alison Cleaves presented a Consent Order for Reinstatement for Dr. Margaret Beaulieu with a probationary term of five (5) years. Dr. Julie Frazier motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

ROBERT BRINK, DPH
2205 Woodchase Close
Cleveland, TN 37311

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Robert Brink was in violation of Rule 1140-2-.02 (2) relevant to a technician who was not licensed. Dr. Brink was assessed a civil penalty of

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\$250. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

KEVIN BROOKS, DPH
2506 David Ross Drive
Columbia, TN 38401

A Consent Order for Reinstatement was presented by Mrs. Alison Cleaves, chief legal counsel for regulatory boards, on behalf of Dr. Kevin Brooks with a term of probation for ten (10) years. Dr. Robert Mitchell motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

SHERRY CHAMP, DPH
8057 Erie Road
Sweetwater, TN 37874

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the revocation of license whereas Dr. Sherry Champ admitted to diverting Hydrocodone and Carisoprodol from the pharmacy without a prescription. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

DONNA M. CLARKSON, DPH
326 Liberty Claybrook Road
Beech Bluff, TN 38313

A Consent Order was presented by Mrs. Alison Cleaves, chief legal counsel, whereas Dr. Donna Clarkson admitted to being chemical dependent. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

TAMMY LARD, DPH
3418 Coach St.
Hixson, TN 37343

A Consent Order for the indefinite suspension of Dr. Tammy Lard's license was presented by chief legal counsel, Mrs. Alison Cleaves. Dr. Lard admitted to being addicted to the use of alcohol, narcotic or other drugs. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

ELYSIA L. PEGGS, DPH
1846 Nevil Court
Colliersville, TN 38017

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Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Elysia Peggs generated prescriptions for herself without physician authorization. Dr. Peggs' license was placed on a one (1) year term of probation; shall furnish the Board of Pharmacy with a copy of her prescriptions; shall not fill any prescriptions for herself or her family members; shall inform present and future employers that she is on probation and the term of that probation; and a civil penalty of \$500 was assessed. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

THOMAS RADFORD RICHARDSON, DPH
22 Harper Cove
Jackson, TN 38305

A Consent Order for Reinstatement with a term of probation for five (5) years for Dr. Thomas Richardson was presented by chief legal counsel, Mrs. Alison Cleaves. Dr. Julie Frazier motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

AMY DENISE COLLINS, RT
3730 Steam Hill Ferry
Denmark, TN 38391

Chief legal counsel, Mrs. Alison Cleaves, presented an Agreed Order on behalf of Ms. Amy Collins, a pharmacy technician for the revocation of her registration due to the theft and diversion of controlled substances. The Revocation became effective July 13, 2005 upon filing with the Secretary of State's Office. Dr. Julie Frazier motioned to **accept** the Agreed Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

KIMBERLY BROOKE HERMAN
1932 Raven Road
Morristown, TN 37814

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for Probation in which Ms. Kimberly Herman executed in order to obtain her pharmacy technician registration. Ms. Herman admitted to filling prescriptions without authorization from a licensed physician. Ms. Herman's registration was placed on a five (5) year term of probation with additional terms and conditions; and an Agreement between Pharmacist in Charge and Ms. Herman was incorporated into the Consent Order for Probation. Dr. Julie Frazier motioned to **accept** the Consent Order for Probation; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

WAIVERS

CHRISTINA DUPRE, DPH
1556 Lacewing Trace Lane
Cordova, TN 38016

Dr. Christina Dupre is requesting a waiver of Rule 1140-1-.07 (3) (b), relevant to the requirements for reinstating an inactive/retired license to active status. Dr. Robert Shutt motioned to **deny** the request; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

J. MICHAEL GORDON, DPH
GORDON'S DRUG STORE
7255 Oak Ridge Highway
Knoxville, TN 37931

Dr. J. Michael Gordon is requesting a waiver of Rule 1140-3-.14 (12) relevant to being the pharmacist in charge at more than one (1) pharmacy practice site. Dr. Gordon is currently the PIC at Gordon's Drug Store and anticipates opening a closed door long term care pharmacy that will only be open when the PIC is present. Dr. Todd Bess motioned to **approve** the waiver request; seconded by Dr. Robert Shutt. Dr. Robert Mitchell made a suggestion to amend the motion that if Dr. Gordon gets to the point that he can not handle the dual PIC role. Dr. Mitchell withdrew his suggestion to amend the motion. All were in favor and the motion carried.

GARY G. KOESTEN, DPH
PETMEDS PHARMACY
1441 S.W. 29th Avenue
Pompano Beach, FL 33069

Dr. Gary Koesten is requesting a waiver of Rule 1140-5-.01 relevant to the fifteen (15) Live ACPE continuing education hours required to renew his pharmacist license. Dr. Koesten stated the Florida Board of Pharmacy recognizes "board approved" continuing education programs. Dr. Koesten has a total of 38.5 credits, of which 22.5 are from Florida "board approved"; and 16 ACPE hours. Dr. Koesten is requesting the Board to accept five (5) hours of the Florida "board approved" live credits, as he has ten (10) Live ACPE hours needed for license renewal. Dr. Julie Frazier motioned to **grant** the waiver request; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

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HARSHILKUMAR S. PATEL, DPH
1008 Quality Circle #63
Gray, TN 37615

Dr. Harshilkumar Patel is requesting the Board to waive the score requirement established by NABP for the Test of Spoken English under Rule 1140-1-.05 (4) and to allow the score of “45” to be sufficient for licensure as a pharmacist in Tennessee. Dr. Sheila Mitchell motioned to deny the request; seconded by Dr. Robert Mitchell. The motion did not carry. Chief legal counsel, Mrs. Alison Cleaves, advised the Rule does not provide the Board the authority to grant the waiver. Dr. Sheila Mitchell motioned **the Board does not have the authority to waive the score established by NABP**. Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

SATWANT RAI SHARMA, RPH
514 Proctor Avenue
Ogensburg, NY 13669

Dr. Satwant Sharma is applying for reciprocity to Tennessee and is requesting a waiver of Rule 1140-1-.05 relevant to the Foreign Pharmacy Graduate Equivalency Committee (FPGEC) certification for graduates of non-accredited pharmacy educational programs. Dr. Sharma has been a registered pharmacist in New York since February 1974. At that time, the only requirement for foreign graduates was to complete the NAPLEX exam, as the FPGEC was not required. The Board deferred the waiver request pending counsel’s research.

Mrs. Alison Cleaves, legal counsel, stated pursuant to T.C.A. §63-10-306 (e), gives the Board the authority to grant the license as long as the qualifications are equivalent. Dr. Robert Shutt motioned since Dr. Sharma has been practicing for thirty (30) years, it should not be a problem; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

NANCY H. TUCKER, DPH
208 Chapel Creek Drive
Jackson, TN 38305

Dr. Nancy Tucker is requesting a waiver of Rule 1140-5-.01 relevant to the fifteen (15) Live ACPE continuing education hours required for the renewal of her pharmacist license. Dr. Tucker is currently serving as a missionary in Indonesia and has been since 1999. Dr. Tucker has met the Live ACPE renewal requirement every other year with the exception of one as she is unable to come to the United States. Dr. Todd Bess motioned to **grant** the waiver; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

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JERRY MOORE, DPH
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, AR 72716

Dr. Kendall Lynch stated Dr. Jerry Moore is requesting approval of a central fill model. Mrs. Alison Cleaves, legal counsel, stated that there is currently no impediment to prohibit this activity.

JODY STONE
COMMERCE & INSURANCE
REGULATORY BOARDS

Ms. Jody Stone with the Regulatory Boards Division provided a brief overview of the Department's new standard complaint handling operating procedures.

DIRECTOR'S REPORT

MEMORANDUM FROM ASSISTANT COMMISSIONER ROBERT GOWAN
RE: BOARD MEMBERS SERVING ON ASSOCIATION BOARDS

Director Kendall Lynch reminded the board members that they have all signed a Conflict of Interest Statement that states, "While serving on any board or commission, the board or commission member shall not serve as an officer, or otherwise serve in a policy-making role, in any trade or professional association. Service on committees of trade or professional associations is permissible; provided, however, that while in such service, the board or commission member does not participate in considerations or actions concerning the board or commission of which he or she is a member."

PERFORMANCE AUDIT – REGULATORY BOARDS
DIVISION OF STATE AUDIT
COMPTROLLER OF THE TREASURY

Director Kendall Lynch stated a Performance Audit was conducted by the Division of State Audit and the Board of Pharmacy's monitoring of impaired pharmacists was found to be in compliance. The entire June 2005 document is available from the Comptroller's website.

IDAHO STATE BOARD OF PHARMACY
BOISE, IDAHO

The Idaho State Board of Pharmacy is the first state to approve as a board approved program for four (4) hours of CE for the Pharmacist Self-Assessment Mechanism (PSAM). President Reggie Dilliard encouraged the program as it is a useful mechanism. Dr. Julie Frazier motioned to **accept** the non-ACPE board approved

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CE as non-live course for (3) three hours. Dr. Sheila Mitchell seconded the motion. All were in favor and the motion carried.

OREGON STATE BOARD OF PHARMACY PORTLAND, OREGON

In the May, 2005 Oregon Board of Pharmacy newsletter relevant to notifying the Board when a change in the PIC occurs, a pharmacy must report the change in PIC in fifteen (15) days, whereas the Tennessee Board requires a thirty (30) days notice.

PHARMACY TECHNICIAN CERTIFICATION BOARD

Director Kendall Lynch stated in the Pharmacy Technician Certification Board's Annual Report dated March 31, 2005, Tennessee had 7,006 certified technicians, and 10,588 technicians are presently registered.

U. S. DEPARTMENT OF JUSTICE DEA

The DEA is finalizing the Notice of Proposed Rulemaking title "Preventing the Accumulation of Surplus Controlled Substances at Long Term Care Facilities." The DEA is submitting a Final Rule to change its existing regulations to allow, where state law permits, for a retail pharmacy to install and operate automated dispensing systems at long term care facilities.

2005 UPDATE SEMINARS EXECUTIVE SUMMARY

Director Kendall Lynch noted there were a total of 1,442 attendees at the 2005 Update Seminars that were conducted throughout Tennessee. The Board of Pharmacy's topics of discussion rated very good or excellent and the presentation rating was very good or excellent.

2006 NABP ANNUAL MEETING SAN FRANCISCO, CA

Director Kendall Lynch advised the Board that the 2006 NABP Annual Meeting will be held during April 8 -11, 2006 in San Francisco, California.

DISTRICT III MEETING AUGUST 7 - 9, 2005 KNOXVILLE, TN

The District III Meeting will be held at the Marriott in Knoxville, Tennessee on August 7 - 9, 2005.

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MALTAGON MEETING
SEPTEMBER 14, 15, 16, 2005
CHARLOTTE, NC

Director Kendall Lynch noted the MALTAGON meeting will be conducted on September 14–16, 2005, in Charlotte, North Carolina.

REGINALD “REGGIE” DILLIARD, DPH
NABP’S – EXECUTIVE COMMITTEE

Dr. Julie Frazier congratulated Dr. Reggie Dilliard on his election to serve a three-year member term for District III, on the Executive Committee of the National Association of Boards of Pharmacy.

HONORABLE DIANE BLACK
STATE SENATOR
305 War Memorial Building
Nashville, TN 37243

The Honorable Diane Black addressed a letter dated May 9, 2005 to Dr. Kendall Lynch on behalf of a constituent who was refused prescriptive services due to declining to provide any information other than his name. Chief legal counsel, Mrs. Alison Cleaves referred the Board to Rule 1140-3-.01 (2) (b) relative to Patient Profiling; and (3) (a) and (b) which references Drug Regimen Review. The patient refused to complete the questionnaire regarding the date of birth (age), gender, and patient’s medical history. Mrs. Cleaves, chief legal counsel, noted a pharmacist shall be responsible for a reasonable view of a patient’s record prior to dispensing each medical or prescription order and is unable to conduct without the patient’s history. Mrs. Cleaves further noted under Rule 1140-2-.01, it states a pharmacist shall hold the health and safety of its patients as the first consideration. Dr. Sheila Mitchell motioned **to support counsel’s recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

REVISION OF BOARD POLICY
DRIVING UNDER THE INFLUENCE ‘99

TENNESSEE BOARD OF PHARMACY

DRIVING UNDER THE INFLUENCE

Per the TENNESSEE BOARD OF PHARMACY Rule 1140-2-.01 (17), a pharmacist or pharmacy technician is required to report the conviction of any crime, including driving under the influence of alcohol or controlled substance, to the board within ten (10) days of said conviction. Upon receipt of a conviction of driving while impaired, the Board shall:

- A. Non-Impaired Licensee/Registrant or Impaired Licensee/Registrant No Longer on Probation
 - 1. First offense in three (3) years - place the conviction in the person’s file;

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2. Second offense in three (3) years - place the conviction in the person's file, and send a consent order with a recommended thirty (30) days suspension of the pharmacist license;
3. Third offense in three (3) years - place the conviction in the person's file, and send a consent order with recommended license revocation.

B. Impaired Licensee or Registrant on Probation at the Time of the Offense

Any action which involves the suspension or revocation of a license/registration will first be offered to the licensee/registrant via a consent order. Should the licensee/registrant choose not to accept the terms of the consent order, the Board shall authorize Counsel to file a formal Notice of Hearing and Charges pursuant to the Tennessee Uniform Administrative Procedures Act, T.C.A. §4-5-101, et seq. (July 12-13, 2005)

Reginald B. Dilliard, President

Kendall M. Lynch, Director

Dr. Julie Frazier motioned to **approve** the DUI board policy statement; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**ARIZONA STATE BOARD OF PHARMACY
GLENDALE, ARIZONA**

The 2005 legislative session passed the Pharmacy Omnibus Bill, officially known as Senate Bill 1126, which will take effect in August, 2005, relevant to the revisions for disciplinary processes in Arizona.

EMILY WOOD, 4TH YEAR STUDENT – MERCER

Ms. Emily Wood, who is interning at Walgreen, gave a presentation to the Board on addiction and the impaired pharmacist.

**DAVID SULLIVAN, DPH – REQUEST FOR REINSTATEMENT OF LICENSE
MEMPHIS, TN**

Dr. David Sullivan appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Steve Jones and Dr. Steve Davis with the Tennessee Pharmacist Recovery Network. Director Kendall Lynch stated in 1983, Dr. Sullivan went for treatment at Charter Lakeside and Harbor House for paregoric abuse. In 2000, Dr. Sullivan attended Charter Lakeside for paregoric abuse. In 2004, Dr. Sullivan entered Lakeside for a four-day evaluation and to address co-dependency issues. Dr. Lynch stated Dr. Sullivan dispensed prescriptions in the physician's name prior to contacting the doctor (i.e., dispensing Tussionex for his son). Advocate Dr. Steve Jones stated Dr. Sullivan could not say "no" to his

customers when they would ask for medication. Dr. Jones noted Dr. Sullivan is compliant with the TPRN program. Director Lynch advised Dr. Ken Tullis recommended Dr. Sullivan obtain employment at a hospital instead of retail due to the number of customers always seeking a handout. Dr. Steve Davis noted Dr. Sullivan is attending meetings and counseling sessions. After board discussion, Dr. Julie Frazier motioned:

1. Respondent does hereby agree to the reinstatement of license number **4028** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **July 12, 2005 to July 12, 2010.**
 - a The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
 - b The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Oakley Jordan, MD and Ken Tullis, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
 - c The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
 - d The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
 - e The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
 - f The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the

Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;

Respondent shall comply with Dr. Tullis' and/or Lakeside's recommendations and/or restrictions.

Shall not fill any prescriptions for himself or family members.

(ii) One (1) year to not more than five (5) consecutive years, the pharmacist shall:

- I. Provide written notice requesting an active license;
- II. Satisfy all past due continuing pharmaceutical education;
- III. Successfully complete the MPJE examination;
- IV. Pay all cumulative license renewal fees and any applicable penalties;
- V. Complete a period of pharmacy internship in Tennessee.
 - A. From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days;*

*(OK'd by the treatment team relevant to completing the internship hours in a retail setting).

Dr. Robert Shutt seconded the motion were in favor and the motion carried.

TANIKA M. BLUE, RT
1205-B Price Lane
Greeneville, TN 37743

Mrs. Alison Cleaves presented an Agreed Order whereas pharmacy technician, Tanika Blue agreed to the revocation of her technician registration number 21634 due to the theft of controlled substances. Dr. Robert Shutt motioned to **accept** the Agreed Order; seconded by Dr. Robert Mitchell. Dr. Sheila Mitchell was out of the room. The motion carried.

1. Case No.: L05-PHR-RBS-200500733

The Complainant alleges that the Respondent is mentally unstable and lied on her application for a pharmacy technician registration. The Respondent was charged with fraudulent use of a Debit Card under five hundred dollars (\$500.00) and appeared in Court on April 13, 2004. Respondent entered into an Agreed Order to retire the charge on April 12, 2005. Respondent's pharmacy technician application was dated November 22, 2004 and the Respondent replied "no" to the question about whether there were pending charges against her.

Recommendation: Letter of Warning

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Sheila Mitchell was out of the room. The motion carried.

2. Case No.: L04-PHR-RBS-200421745

The complaint alleges that the Respondent was terminated from her employment as a pharmacy technician because of theft and diversion of controlled substances. Respondent admitted to theft of Hydrocodone in various strengths and handing the tablets to a friend at the drive-thru in exchange for money. Respondent's pharmacy technician registration expired on April 30, 2005.

Recommendation: Closure and flag in case of reapplication

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. Dr. Sheila Mitchell was out of the room. The motion carried.

3. Case No.: L05-PHR-RBS-200400177

The complaint alleges that the Respondent was terminated from her employment with Eckerd Drugs, #2546 for theft of drugs. An investigation into this matter reveals that the Respondent admitted to taking 225 tablets of Hydrocodone 7.5/500; 40 tablets of Hydrocodone 7.5/650; 10 tablets of Hydrocodone 10/500; 95 tablets of Hydrocodone 10/650; 20 tablets of Alprazolam .5mg; 20 tablets of Alprazolam 1mg. The DEA 106 form provides that there was a loss of 7478 tablets Hydrocodone 7.5./500; 4493 tablets Hydrocodone 7.5/650; 3657 tablets of Hydrocodone 10/650mg; 3597 tablets Hydrocodone 5/500mg; and 2140 tablets of Hydrocodone 10/500mg.

Recommendation: Formal Hearing

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Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. Dr. Sheila Mitchell was out of the room. The motion carried.

4. Case No.: L05-PHR-RBS-200500637

The complaint alleges that the Respondent was terminated from her employment as a pharmacy technician for theft of controlled substances. An investigation into this matter revealed that loss prevention installed a camera in the pharmacy which revealed that the Respondent was taking controlled substances from the pharmacy. Respondent subsequently admitted in a written statement to taking approximately 1,000 to 1,500 tablets of Alprazolam 1mg; 20 bottles of Hydrocodone 10/500; 8000 tablets of Hydrocodone 10/650; 10,000 tablets of Hydrocodone 7.5/500. The pharmacy pursued criminal charges against the Respondent, which are still pending. Respondent's registration expires on August 31, 2005.

Recommendation: Formal Hearing if the Respondent renews. In the event that it expires, close the file and flag upon reapplication

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. Dr. Sheila Mitchell was out of the room. The motion carried.

5. Case No.: L05-PHR-RBS-200500731

The Complainant alleges that the Respondent, a registered pharmacy technician was hospitalized because of a prescription drug overdose of Klonopin. An investigation into this matter revealed that the Respondent had a prescription for this medication and that there was no diversion involved, but did take the incorrect dosage of the prescribed medication. The PIC informed the investigator that the Respondent was treated for a psychiatric disorder and was allowed to return to work. Upon return to work, the Respondent was transferred out of the pharmacy and to the photo department. PIC contacted the investigator approximately two (2) months after their first conversation and told the investigator that the Respondent was responding well to treatment and that he would feel comfortable with her working as a pharmacy technician. To the best of our knowledge, the Respondent is still working in the photo department.

Recommendation: Dismissal

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Sheila Mitchell was out of the room. The motion carried.

6. Case No.: L05-PHR-RBS-200500783

The anonymous Complainant alleges that the Respondent has been engaging in gross misconduct by taking drugs from the pharmacy inventory, but Complainant also states that he/she is not alleging that the Respondent has taken any controlled substances. Complainant also alleges abuse and discrimination issues. Our investigator was contacted by the Complainant, a technician at the pharmacy, who indicated that she was recently reprimanded for medication errors that were the Respondent's fault and that she has observed the Respondent taking Celebrex and Bextra from the pharmacy without paying for them. Our investigator contacted the other pharmacist in the pharmacy who indicated that he has seen the Respondent taking Vioxx but that a prescription was on file for the Respondent and the Respondent paid for the medication. The district manager has informed us that their investigation into the pharmacy where the Respondent works showed "no diversion indicators" and therefore saw no reason to perform any additional audits.

Previous complaints: None

Recommendation: Dismissal

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Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. Dr. Sheila Mitchell was out of the room. The motion carried.

7. Case No.: L05-PHR-RBS-2005000011

The complaint alleges that the Respondent was terminated from her employment as a pharmacy technician for theft and diversion of controlled substances. Investigation revealed that the Respondent admitted in a written statement that during eight months of the Respondent's employment with the pharmacy, she took Hydrocodone, Xanax, Clonazepam and Alprazolam (did not indicate amounts) for her own personal use and to sell them to her friends. The DEA 106 form indicates shortages of all of the above-referenced drugs in various strengths.

Recommendation: Formal Hearing

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Sheila Mitchell was out of the room. The motion carried.

8. Case No.: L05-PHR-RBS-2005009431

The complaint alleges that the Respondent's employment as a pharmacy technician was terminated for having prescriptions for Hydrocodone and Carisoprodol filled twice at two (2) different pharmacies. While investigation was in process, the Respondent's registration expired on May 31, 2005.

Recommendation: Closure and flag in case of reapplication

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. Dr. Sheila Mitchell was out of the room. The motion carried.

9. Case No.: L04-PHR-RBS-200419738

The complaint alleges that the Respondent was terminated from her employment as a pharmacy technician for theft and diversion of controlled substances. Respondent admitted this conduct; however, her registration has expired.

Recommendation: Closure and flag in case of reapplication

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. Dr. Sheila Mitchell was out of the room. The motion carried.

10. Case No.: L05-PHR-RBS-2005004591

The complaint alleges that the Respondent, a registered technician, was terminated from his employment for theft of controlled substances. Investigation reveals that the pharmacist on duty saw the Respondent leaving the narcotics cabinet and that a partial bottle of Oxycontin 20 mg was gone. Pharmacist then searched the Respondent's trash and discovered an empty bottle of Oxycontin 20mg and there were no Oxycontin prescriptions filled that day. Pharmacist called the police. Police observed Respondent trying to dispose of a vial of 49 Oxycontin 20 mg. Respondent was arrested and a search of his car revealed several unlabeled prescription vials containing different strengths of Hydrocodone/APAP. The DEA 106 form shows shortages of Alprazolam, Hydromorphone, Oxycondone and Hydrocodone in various strengths.

Recommendation: Formal Hearing

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Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. Dr. Sheila Mitchell was out of the room. The motion carried.

11. Case No.: L05-PHR-RBS-2004207851

The Complainant (prescriber) alleges that the Respondent, pharmacist filled a prescription for Restoril 15mg with the incorrect directions. The prescriber wrote the prescription for one (1) or two (2) at bedtime as needed for sleep. The directions on the prescription bottle were "Take one (1) to two (2) capsules by mouth every hour for severe pain for runny nose sleep." Since the patient was familiar with the medication, the patient did not consume any incorrect dosages. Respondent, pharmacist admits that the error occurred and states that the error occurred at a very busy time at the pharmacy which caused the Respondent to not adequately check the prescription. Respondent indicates that the an additional factor that contributed to the error was the close similarity of "quick codes" used for directions – "1qdhs" translates "one at bedtime" while "1qh" translates "1 every hour".

Prior complaints:

D.Ph.: None

Pharmacy: None

Recommendation: Letter of Warning

Dr. Todd Bess noted **to review the quick code files and issue a Letter of Instruction to the PIC and a Letter of Warning to the dispensing pharmacist**. Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

12. Case No.: L05-PHR-RBS-2005018451

The complaint, generated from a period compliance inspection, revealed that an individual was observed performing pharmacy technician duties at the pharmacy while unregistered with the Board. The PIC responded to the complaint by stating that he assumed that the pharmacy completed the registration process. PIC obtained the forms and stated that he will submit them as soon as possible.

Prior complaints:

D.Ph.: None

Recommendation: Consent Order with \$100.00 civil penalty to PIC

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

13. Case No.: L05-PHR-RBS-200501724

The Complainant, who is the parent of an eight (8) year old child, alleges that a prescription for Lortab 2.5mg was erroneously filled with Lortab 7.5mg. The Complainant caught the error before the child consumed the medication. The Respondent, pharmacist admits the error stating that both he and the technician misread the prescription. Respondent state that he does not often get prescriptions for Lortab 2.5 mg, so they both mistook the "2" for a "7". Respondent states that since this error, he received a prescription for 7.5mg and called the prescriber to verify the strength and to make certain it was not 2.5mg. The pharmacy apologized, corrected the error, refunded the price of the prescription and telephoned the Complainant the next day for follow-up.

Prior complaints:

D.Ph.: 1/96, refused to fill prescription, dismissed

Technician: None

Pharmacy: 3/03, misfill, LOW

Recommendation: Letter of Warning to DPh and Technician

Dr. Sheila Mitchell motioned to **accept the recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

14. Case No.: L04-PHR-RBS-200421181

The complaint alleges that the Respondent, pharmacy technician, admitted to taking thirty-five (35) tablets of Hydrocodone and ten (10) Claritin tablets. Complaint further alleges that the Respondent used her personal premium card to obtain cash rebates that were due to customers. Respondent subsequently recanted her admission. The Respondent had criminal charges against her for these alleged acts that were dismissed because of problems in obtaining the admission from the Respondent. Board previously authorized this case for a formal hearing before knowing that the criminal charges were dismissed.

Prior complaints: None

Recommendation: Dismissal

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

15. Case No.: L05-PHR-RBS-200501033

The Complainant, parent of patient, a 2 year old child, alleges that the Respondent, pharmacist put the incorrect dosage instructions on the prescription for Tylenol with Codeine as "Take 1 or 2 teaspoonfuls every 4 hours", instead of reading "Take ¼ to ½ teaspoonful every 4 hours." The Complainant caught the error before the incorrect dosage was administered to the patient. The Respondent admits the error. PIC states that he contacted the Complainant after the incident occurred to find out what went wrong and to prevent future incidents. PIC also spoke to the pharmacist who filled the prescription to see how the incident occurred. Verifying pharmacist thought that the directions looked like 1-2 teaspoonfuls.

Prior complaints:

D.Ph.: None

Pharmacy: 1/97, patient counseling, \$200.00 civil penalty

Recommendation: Letter of Warning to dispensing pharmacist

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

16. Case No.: L05-PHR-RBS-2005010321

The Complainant, a physician and spouse of the patient, alleges that the Respondent, pharmacist was unprofessional, refused to fill a prescription for Percocet because it was too early, refused to telephone the prescribing physician, and threw the prescription back at the patient. Complainant further alleges that the pharmacy manager supported the Respondent and argued with him about the directions on the prescription. Complainant was not present when the spouse picked up the prescription.

Respondent received a prescription for Percocet 60 tablets, take 1 tablet twice a day. Respondent noticed that the patient had a previous prescription for Percocet filled 22 days earlier with the same directions, making the prescription refill early by about 8 days. The Respondent spoke to the patient and informed the patient that it was too soon to fill the prescription. The patient informed the Respondent that the prescriber orally directed her to take up to 3 tablets daily. Within 1 hour, the Respondent confirmed the dosage with the prescriber and filled the prescription. The Respondent denied that she threw the prescription at the patient. PIC states that the

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Complainant telephoned the pharmacy the next day and spoke to the PIC stating that the Respondent was rude and asked the PIC how he was going to handle the situation. The PIC responded that he thought the situation was handled properly. District Manager and corporate headquarters were then telephoned and after conferring with the PIC, determined that the situation was handled properly.

Prior complaints:

D.Ph. (PIC)- None

D.Ph. (WW)- None

Pharmacy- 9/03, patient counseling, \$300.00 civil penalty

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

17. Case No.: L05-PHR-RBS-2005002461

The Complainant alleges that her debit card was overcharged by \$40.00 on 11/12/04 when she was charged \$170.90, instead of \$139.90. Pharmacy indicated that they credited back the \$170.90 and only charged the \$139.90; however, pharmacy did not credit the higher amount to the Complainant. This resulted in overdrafts on 11/18/04 and 11/19/04 and also on 12/2/04 and 12/3/04. The pharmacy credited the \$170.90 to the Complainant's account and paid the November overdraft charges, but did not feel that they were responsible for the December overdraft charges.

Prior complaints:

D.Ph.: None

Pharmacy: 12/91, filled prescriptions without authorization, dismiss

Recommendation: Dismissal

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

18. Case No.: L05-PHR-R BS-200501014

The Complainant, a pharmacist, alleges that the Respondent pharmacy failed to give him copies of a patient's prescriptions upon the Complainant's request. The PIC states that the owner of the Respondent pharmacy passed away and the Complainant is a former employee of the pharmacy who opened a competing pharmacy. When the competing pharmacy first opened the Respondent pharmacy willingly provided copies of patient prescriptions; however, the Respondent pharmacy decided to restrict copies to the Complainant when patients called stating that the prescriptions were not transferred with their consent. Respondent pharmacy now requires that the patients must contact the pharmacy directly if they want their prescriptions transferred.

Prior complaints:

D.Ph.: None

Pharmacy: None

Recommendation: Dismissal

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

19. Case No.: L05-PHR-RBS-2005013651

The Complainant alleges that the pharmacy refused to fill her prescription for Zofran which was approved by her insurance company. Complainant further alleges that the Respondent pharmacist was rude, unprofessional, hung up the phone on her and refused to look up anything for her. Complainant further alleges that the pharmacy gave her someone else's medication. Pharmacy asked for the medication to be brought back, but the Complainant showed the bottle to the pharmacy staff, but refused to give it back to them.

Respondent pharmacist states that the Complainant was using a different name than the name used in the complaint, which may have contributed to the problem. The Respondent states that the prescription was rejected and telephone calls to the PBM indicated that it was not covered. Respondent states that they telephoned the prescriber twice, but did not receive any help. The pharmacy denies giving the incorrect prescription to the Complainant and says that the alleged incorrect prescription "disappeared" when they let her know about the PBM response. The Respondent denies any rude or unprofessional conduct.

Prior complaints:

D.Ph.: 11/97, illegal substitution, dismiss

Pharmacy: 11/97, illegal substitution, dismiss

Recommendation: Letter of Warning

Dr. Sheila Mitchell motioned to **dismiss** the complaint; seconded by Dr. Todd Bess. All were in favor and the motion carried.

20. Case No.: L05-PHR-RBS-200501730

The Complainant alleges that two (2) medication errors resulted when eight (8) different prescriptions for family members were filled. A prescription for Paquenil was in the Complainant's bag which did not belong to the family, but contained the same name as her eleven (11) month old child. Respondent states that there were two (2) prescriptions with the same patient name. The cashier verified the birth date per pharmacy policy and set the Plaquenil prescription aside so it would not be dispensed to the wrong individual. Cashier became distracted and placed the wrong prescription in the Complainant's bag. The error was discovered when the other patient came into the pharmacy and the pharmacist telephoned the Complainant and determined that the error had been detected by the Complainant and the child did not consume any of the incorrect medication.

The second error was a prescription for Pulmicort was labeled with an incorrect patient name; the prescription had the Complainant's other child's name on it. Respondent states that while rechecking the daily new prescriptions, the pharmacist noticed that the prescription was filled for the wrong person and telephoned the Complainant to advise her. Both of the Complainant's children take the same prescription and the directions were the same.

Prior complaints:

D.Ph.: None

Pharmacy: 3/94, wrong directions, letter of reprimand

Recommendation: Letter of Warning

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. Dr. Sheila Mitchell was out of the room. The motion carried.

21. Case No.: L05-PHR-RBS-200421616

The Complainant alleges that a technician at the pharmacy has revealed her confidential patient information to other persons in the community as well as other pharmacies and to her doctors. Complainant provided

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statements with her complaint from two (2) other individuals stating that the technician inquired about buying street drugs and continued to inform the individual what medications the Complainant was taking and where she picks up her medications. The statement from the other individual said that the Respondent told her that the Complainant was taking narcotics and disclosed additional information about doctor's names, medications and the clinic that the Complainant was attending.

Respondent, technician denies the allegations, but states that some of the Complainant's patient information was provided to other pharmacies and medical offices. PIC responded to the complaint as well and indicates that since the Complainant was seeing multiple doctors and pharmacists, they did not feel comfortable filling her prescriptions and contacted her physician. Pharmacy then told Complainant that they were willing to transfer her prescriptions to another pharmacy.

Prior complaints:

D.Ph.: None

Technician: None

Pharmacy: None

Recommendation: Letter of Instruction about patient confidentiality to technician

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Sheila Mitchell was out of the room. The motion carried.

22. Case No.: L05-PHR-RBS-200515982

The Complainant alleges that the Respondent attempted to fill a telephone prescription for Tussigan with a prescription labeled "for clinic use only" authorized by a veterinarian. PIC stated that the Respondent filled the prescription and the PIC was told by a pharmacy investigator that an invoice was the proper way to transfer controlled substances between registrants, not by prescription. Investigator indicates that the Respondent filled several prescriptions in this manner in 2004.

Recommendation: Letter of Warning

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Julie Frazier. Dr. Sheila Mitchell was out of the room. The motion carried.

23. Case No.: L05-PHR-RBS-200501337

The Complainant alleges that the Respondent, registered pharmacy technician, was terminated from her employment because of theft of controlled substances. Investigation revealed that the Respondent was observed on CCTV tape opening up drugs bottles and pouring the contents into white paper sacks underneath her work station. Pharmacy personnel confronted the Respondent about possible theft, at which time the Respondent admitted to the conduct in writing. Respondent was subsequently arrested for felony theft of controlled substances.

Recommendation: Formal Hearing

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Sheila Mitchell was out of the room. The motion carried.

24. Case No.: L05-PHR-RBS-200501356

The Complainant alleges that the Respondent was terminated from her employment for a positive urine screen for Hydrocodone and theft of eighty (80) tablets of Hydrocodone 10/325. Investigation revealed that pharmacy

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staff noticed the Respondent unsteady on her feet and appearing drowsy. She was sent for a drug screen and then sent home until the results of the drug screen came back. When she left, staff discovered approximately eighty (80) Hydrocodone/APAP tablets loose in the lab coat pocket and a few tablets on the floor where the Respondent had been working. A subsequent count of Hydrocodone discovered approximately 270 tablets missing.

Recommendation: Formal Hearing

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. Dr. Sheila Mitchell was out of the room. The motion carried.

25. Case No.: L05-PHR-RBS-200501162

The complaint alleges that the Respondent, pharmacist dispensed a defective Duragesic patch to a patient who subsequently died because of a fatal level of Fentanyl. An investigation into this matter revealed that the Respondent did dispense a Duragesic patch to the decedent; the Respondent dispensed it on the same day that the pharmacy received the recall of the patch from the manufacturer. Respondent wrote on the recall memo that the patch was not in stock and it is dated the same day that the patch was dispensed to the decedent, indicating that the Respondent received the memo subsequent to dispensing. Respondent also indicated that the pharmacy did not know the lot number of patches dispensed to the decedent. Recall was not of a type that required the pharmacy to contact the patient. According to a news report about this patient, the physician who performed this autopsy indicated that the death was due to Fentanyl intoxication and that the decedent had three (3) patches on his body upon arrival, when the prescription was for one (1) patch every seventy-two (72) hours.

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**. The motion dies for the lack of a second. Dr. Robert Shutt motioned to dismiss; seconded by Dr. Julie Frazier. Dr. Sheila Mitchell was out of the room. The motion carries.

26. Case No.: L05-PHR-RBS-2005015071

The Complainant alleges that Respondent, residential/vocational facility is operating as a pharmacy without a pharmacy license and without a licensed pharmacist. Complainant specifically alleges that the facility was repackaging and administering "left over" Clozapine without the required blood work being done. Investigation reveals that even though the facility calls itself a "pharmacy" and the personnel have name tags saying they are "pharmacy technicians", the facility does not operate as a pharmacy. It does not purchase or sell product or prescriptions drugs; it does not have materials or equipment to fill prescriptions or repackage products. All of the drugs are received by the facility already labeled for specific patients. The facility acts as a clearing house to dispense the medications to the appropriate group homes where the patients reside.

In response to the Clozapine allegation, the administrator of the facility recalls one incident in which a patient on Clozapine was discharged from the hospital late in the day and the physician could not be reached. Medication was waiting for the patient at the facility which had not been picked up because the patient had been hospitalized. Administrator could not reach someone at the pharmacy and she did not want to give out the entire two (2) weeks of medication without the blood test results. She gave one (1) dose to the patient and told the patient to make necessary contacts in the morning.

Recommendation: Letter of Instruction about not referring to the facility as a pharmacy and not having personnel referred to as pharmacists and/or technicians and not repackaging or dispensing medication.

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Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

27. Case No.: L05-PHR-RBS-2005011631

The Complainant alleges that her prescriptions for Hydrocodone/APAP 5/500, thirty (30) tablets and Alprazolam 0.5mg sixty (60) tablets were transferred and dispensed at a pharmacy without her authorization. Respondent pharmacist stated to investigator that a female entered the pharmacy with a prescription bottle bearing the Complainant's name and asked that her prescriptions at a community pharmacy and hospital pharmacy be transferred; in accordance with the pharmacy policy, the Respondent did not ask the female for identification. Respondent contacted the other pharmacy and hospital to effectuate the transfer. Since this incident, pharmacy has changed its policy.

Recommendation: Letter of Warning

Dr. Robert Shutt motioned to issue a **Letter of Instruction**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

28. Case No.: L05-PHR-RBS-2004182231

Respondent pharmacist who is already on probation with the Board, relapsed by being intoxicated at work.

Prior complaints:

5/25/04- CO for suspension

7/14/04- Reinstatement

5/05- CO extension of probation

Recommendation: Formal Hearing. Consent Order for Revocation

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

29. Case No.: L05-PHR-RBS-200501725

The complaint alleges that the Respondent, registered pharmacy technician was terminated for theft of controlled substances. Respondent admitted in a written statement that she diverted approximately 3,600 dosage units of various strengths of Hydrocodone over a period of approximately twelve (12) months from two (2) pharmacy locations. She then sold the drugs for \$150.00 to \$200.00 a bottle. Respondent also admitted to changing a prescription for Effexor to Lexapro without physician authorization.

Recommendation: Formal Hearing

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

30. Case No.: L05-PHR-RBS-200500315

The complaint alleges that Respondent, registered pharmacy technician was terminated for theft of controlled substances, Lortab 7.5/500. Respondent admitted conduct in a written admission and verbally to loss prevention. Police were subsequently contacted.

Recommendation: Formal Hearing

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Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

31. Case No.: L05-PHR-RBS-200501369

The Complainant, a physician, alleges that the Respondent filled a prescription for a DAW Duragesic prescription with a generic without authorization from the Complainant. Investigator spoke to the pharmacist who filled the prescription. Pharmacist admitted that on two (2) occasions she did fill the prescription with a generic when prescription stated "dispense as written".

Prior complaints:

D.Ph.: None

Recommendation: Letter of Warning

Dr. Sheila Mitchell motioned to **issue a Letter of Instruction**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

32. Case No.: L05-PHR-RBS-200500638

The Complainant alleges that the Respondent, registered pharmacy technician was terminated from her employment for theft of controlled substances. Pharmacist called the police when she observed suspicious activity from the Respondent, at which time the police found Valium in her purse. Respondent plead guilty to Theft and Simple Possession and was placed on probation.

Recommendation: Formal Hearing

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

33. Case No.: L05-PHR-RBS-200501165

Complaint alleges that Respondent, licensed pharmacist has been providing medical advice and herbal treatments to patients and recommending that the patients not seek medical conventional treatment. Investigation revealed that the Respondent is not operating a pharmacy; he only provides herbal ointments and tonics. It does not appear that the Respondent is operating a pharmacy nor is he engaging in the practice of pharmacy.

Recommendation: Dismissal and refer to Board of Medical Examiners

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

#200006150(1)

Mrs. Alison Cleaves, chief legal counsel, advised the Board that a pharmacist, who is currently on contract with the Board, had two urine screens test positive for Hydrocodone in February 2003 and August, 2004. The pharmacist disciplinary file did not contain a prescription for Hydrocodone cough syrup and only had one (1) prescription for Lortab 5/500. The Board office is currently awaiting the results of a urine screen collected on June 8, 2005. Mrs. Cleaves, legal counsel, recommended a formal hearing be scheduled. Dr. Robert Mitchell motioned to **proceed with a formal hearing should the urine screen results indicate positive**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

PHARMACY BOARD MEETING SCHEDULED

Tennessee Board of Pharmacy
July 12 – 13, 2005
FORMAL HEARINGS
OCTOBER 26, 2005

The Board of Pharmacy has scheduled a board meeting on **Wednesday, October 26, 2005, at 9:00 a.m. CDT** in Room 160 of the Davy Crockett Tower, Nashville, Tennessee, for the purpose of conducting formal hearings for pharmacy technicians.

TENNESSEE PHARMACISTS ASSOCIATION MEETING

Director Kendall Lynch noted some of the topics for discussion/handouts for the TPA meeting include: Meth Free Tennessee; New Substitution Law; and the MPJE.

CRIMINAL BACKGROUND CHECKS

Director Kendall Lynch noted during the 2005 Legislative session, the legislature passed into law to allow for criminal background checks to be conducted on applicants applying for licensure in Tennessee. The request must be submitted through the Board's legal counsel.

ADJOURNMENT

President Reggie Dilliard adjourned the Board of Pharmacy meeting on Tuesday, July 12, 2005 at 4:20 CDT.

RECOVERED

The Tennessee Board of Pharmacy reconvened on Wednesday, July 13, 2005, at 9:20 a.m. CDT in Room 160 of the Davy Crockett Tower. A quorum of the members being present, President Reggie Dillard called the meeting to order. Mrs. Monica Franklin was not present due to illness in her family.

FORMAL HEARINGS

REGAN S. FALIN, RT
213 Live Oak Drive
Kingsport, TN 37660

This cause came to be heard before the Tennessee Board of Pharmacy on July 13, 2005, upon the Notice of Hearing and Charges being filed on June 1, 2005. The Honorable Cara Harr, Administrative Law Judge, presided at the hearing to consider the matter of Regan Falin, Docket No. 12.12-073487A. Mrs. Alison Cleaves, Chief Legal Counsel for Regulatory Boards, Department of Commerce and Insurance represented the State of Tennessee. Mrs. Cleaves noted for the record that Ms. Falin was not present nor was he

represented by counsel. Present at the hearing were Board members Dr. Reggie Dilliard, Dr. Julie Frazier, Dr. Sheila Mitchell, Dr. Robert Mitchell, Dr. Todd Bess and Dr. Robert Shutt. Consumer board member, Mrs. Monica Franklin was not present. Mrs. Cleaves requested for a Motion to Default since service was documented as being received by Rachel Sewell, mother of the pharmacy technician at 820 Red Oak Street, Mt. Carmel, Tennessee 37645. A copy of the investigators report is attached. Dr. Sheila Mitchell motion to **grant the Motion for Default**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried. Chief legal counsel, Mrs. Alison Cleaves stated Ms. Falin admitted to the theft and diversion of controlled substances after being caught on camera. Mrs. Cleaves remarked the State requests for the revocation of Ms. Falin's license. Mrs. Sheila Mitchell motioned to **accept the Allegations that were outlined by counsel**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

CONCLUSION OF LAW

Dr. Julie Frazier motioned that based on the findings of fact, to **accept the Conclusion of Law that was provided to the Board in the Notice of Hearing and Charges**. Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried. Dr. Julie Frazier motioned to **revoke the registration of Reagan S. Falin#14223**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

POLICY STATEMENT

Dr. Julie Frazier noted that it is the policy of the Board to revoke the registration or license of any technician or pharmacist who has violated and Board statute or rule; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

DOCKET #12.12-073483A

Chief Legal Counsel, Mrs. Alison Cleaves, noted a pharmacy technician was terminated by her employer for the theft of controlled substances. The technician admitted to obtaining prescription drugs without the approval of an authorized subscriber and agrees to the revocation of her technician license. Dr. Robert Shutt motioned to accept the Agreed Order; seconded by Dr. Sheila Mitchell. Dr. Todd Bess was not in the room. The motion carried.

Mrs. Alison Cleaves, chief legal counsel, stated a pharmacy technician admitted to the theft and diversion of controlled substances after being observed by a closed circuit camera. A DEA 106 was filed. The technician did not have a prescription or an authorization from a physician or other person authorized to prescribe medications to obtain controlled substances and she agrees to the revocation of her pharmacy technician registration. Dr. Julie Frazier motioned to **accept the Agreed Order**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

#2005018481

Chief legal counsel, Mrs. Alison Cleaves, stated a pharmacist was arrested for the possession of marijuana and cocaine and a DUI. The pharmacist entered into a pre-trial plea and the possession of a controlled substance will be expunged by the court on December 7, 2006. The treatment team recommended the pharmacist to abstain from the use of all mood altering substances; attend one (1) A/A meeting weekly; obtain a permanent sponsor; attend an aftercare program for up to two (2) years; and obey the law. Mrs. Cleaves' recommended to the Board to issue a Consent Order with a five (5) year term of probation with the usual terms and conditions plus enter into a contract with TPRN and to submit to urine screens and/or any recommendation required from the treatment team. A substance abuse evaluation was conducted and nothing was revealed. The pharmacist requested an inactive/retired status until these issues are resolved. Dr. Robert Mitchell motioned to **approve the counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**OSBORNE BURKS, DPH – REQUEST TO APPEAR FOR THE REINSTATEMENT OF LICENSE 5+
CORDOVA, TN**

Director Kendall Lynch noted Dr. Osborne Burks' license expired in January, 1999. In February, 2005, Dr. Burks' inquired about the requirement for reinstatement, which included fees, 320 hours of internship; continuing education; MPJE and the NAPLEX and was scheduled to appear before the Board today. Dr. Burks advised after completing college he worked as a pharmacist but left the field of pharmacy and began teaching. Dr. Burks became an instructor at Southwest Community College and began teach pharmacy technician courses. After board discussion, Dr. Julie Frazier motioned **to not waive any conditions to obtain a license**;

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seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

FAREWELLS

Dr. Reggie Dilliard on behalf of the Board expressed their appreciation for the contribution Dr. Robert Shutt made to the Board of Pharmacy. Director Kendall Lynch congratulated Dr. Shutt on his future endeavors and thanked him for his service. Dr. Robert Shutt acknowledged that his tenure with the Board has been a very rewarding experience.

ADJOURNED

Dr. Sheila Mitchell motioned to adjourn the Board of Pharmacy meeting at 11:35 a.m. CDT on Wednesday, July 13, 2005; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

Respectfully submitted,

Reggie Dilliard, President

Kendall M. Lynch, Director